

Message Text

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ACTION L-03

INFO OCT-01 ARA-06 ISO-00 EB-07 CIAE-00 INR-07 NSAE-00

TRSE-00 COME-00 OMB-01 XMB-02 CIEP-01 /028 W

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R 192225Z SEP 75

FM AMEMBASSY LIMA

TO SECSTATE WASHDC 6898

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EO 11652: N/A

TAGS: BDIS, EINV, EMIN, PE

SUBJECT: APPLICABILITY OF GREENE AGREEMENT

REF: STATE 221843

1. EMBASSY HAS ALREADY TAKEN ACTION AS SUGGESTED BY DEPARTMENT IN FORM OF LETTER DELIVERED PERSONALLY BY AMBADDADOR TO UNDER SECRETARY FOR ECONOMIC AFFAIRS, AMBASSADOR JOSE DE LA PUENTE. DE LA PUENTE AND MINISTER WALTER STUBBS, WHO WAS ALSO PRESENT, WERE SYMPATHETIC AND IMMEDIATELY RECOGNIZED JEOPARDAY TO DR. DE PIEROLA. DE LA PUENTE TELEPHONED NEW FINANCE MINISTER BARUA SAME DAY AND FOLLOWED THIS WITH LETTER FROM DIRECTOR GENERAL GARCIA BEDOYA TO VICE MINISTER OF FINANCE ON SEPTEMBER 17. LETTER REQUESTED FINANCE MINISTRY TO POSTPONE ACTION AGAINST DR. DE PIEROLA TO PERMIT FURTHER STUDY BY GOP OF APPLICABILITY OF GREENE AGREEMENT. HOWEVER, DR.DE PIEROLA INFORMED EMBASSY OFFICER SEPTEMBER 19 THAT KEIL MERELY REFERRED LETTER TO TAX DEPARTMENT AND THAT JUDGE IN CHARGE OF CASE HAS SO FAR RECEIVED NO INSTRUCTIONS TO WITHHOLD FURTHER ACTION. EMBASSY OFFICER IMMEDIATELY CONTACTED STUBBS WHO SAID DE LA PUENTE WOULD AGAIN DISCUSS MATTER WITH BARUA.

2. EMBASSY OFFICER HAD EARLIER BEEN INFORMALLY ADVISED BY BOTH PIEROLA AND STUBBS THAT THERE IS SOME SENTIMENT IN MINISTRY THAT IT IS ANOLOMOUS FOR EMBASSY TO BE

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INTERCEDING WITH MINISTRY OF BEHALF OF PERUVIAN NATIONAL

AGAINST WHOM ANOTHER AGENCY OF GOP IS ACTING. HE THOUGHT THAT AT SOME POINT, IT MIGHT BE DESIREABLE FOR EMBASSY TO FOLLOW LETTER WITH FORMAL NOTE WHICH WOULD CITE APPLICABILITY OF GREENE AGREEMENT TO CIDECSA ITSELF. SINCE CIDECSA IS ENTITY AGAINST WHICH TAX CLAIM IS BEING BROUGHT IN FIRST INSTANCE, THIS IN STUBBS' VIEW WOULD AUTOMATICALLY VOID CLAIM AGAINST DE PIEROLA. HE THOUGHT IT WOULD NOT BE PRO- DUCTIVE TO SEND SUCH NOTE AT THIS TIME SINCE IT MIGHT AROUSE LATENT SENSITIVITIES, BUT PROMISED TO ADVISE EMBASSY OFFICER WHEN TIME MIGHT BE RIGHT.

3. IN MEANTIME, DE PIEROLA HAS BEEN SERVED WITH A SECOND TAX CLAIM OF SOME MILLION SOLES WHICH CARRIES WITH IT POTENTIAL CRIMINAL CHARGES, AND HE UNDERSTANDS THAT A THIRD CLAIM OF AN ADDITIONAL FIVE MILLION SOLES IS IN THE OFFING. TOTAL CLAIMS AGAINST HIM COULD THUS AMOUNT TO ABOUT 30 MILLION SOLES (\$800,000 AT RATE OF S.37.80 PER DOLLAR). CERRO REPRESENTATIVE GARDENER HAS SUGGESTED STRONG TELEGRAM FROM CERRO NEW YORK TO FOREIGN AND FINANCE MINISTRIES CITING APPLICABILITY OF GREENE AGREEMENT AND UNJUSTIFIABILITY OF CLAIMS AGAINST DE PIEROLA. EMBASSY OFFICER ADVISED AGAINST SUCH ACTION AT THIS TIME SINCE IT COULD EXACERBATE SITUATION AND MIGHT EVEN DETRACT FROM REPRESENTATIONS EMBASSY HAS BEEN MAKING.

4. COMMENT: FOREIGN MINISTRY OFFICIALS APPEAR SINCERE IN THEIR RECOGNITION OF INJUSTICE TO DE PIEROLA AND SEEM TO BE IN INFORMAL AGREEMENT THAT PROVISIONS OF GREENE AGREEMENT ARE APPLICABLE. THEY HAVE ALSO MOVED WITH UNACCUSTOMED PROMPTNESS IN MAKING REPRESENTATIONS TO FINANCE MINISTRY. UNFORTUNATELY, FINANCE MINISTRY HAS SO FAR BEEN UNABLE OR UNWILL- ING TO TAKE NECESSARY ACTION. WE ARE IN ALMOST DAILY CON- TACT WITH GARDENER, DE PIEROLA, AND FOREIGN MINISTRY ON THIS PROBLEM. NEXT STEPS AVAILABLE TO US APPEAR TO BE DIRECT CONTACT WITH FINANCE MINISTRY AND/OR FORMAL NOTE AS OUTLINED PARAGRAPH 2 ABOVE; HOWEVER, WE THINK IT ADVISABLE TO COORDINATE ANY SUCH ACTIONS WITH FOREIGN MINISTRY.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ARBITRATION, AGREEMENTS, TAXES, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 19 SEP 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975LIMA07803
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750326-0708
From: LIMA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750936/aaaabfnc.tel
Line Count: 98
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 STATE 221843
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 12 SEP 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 SEP 2003 by CunninFX>; APPROVED <09 OCT 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: APPLICABILITY OF GREENE AGREEMENT
TAGS: BDIS, EINV, EMIN, PE, (DE PIEROLA)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006